

Water Acquisition and Management Subcommittee Position Paper: New Mexico Acequia Water

General Information

- **Definition:** An *acequia* is a community irrigation ditch and, in New Mexico, an *acequia* refers to a centuries-old system of communal management of water and to the community of farmers that cooperatively maintain the ditch and distribute irrigation water.
- **Governmental organizations:** Acequias are local units of government, political subdivisions of the state. As a political organization, an acequia, or a community ditch, is a public entity that functions to allocate and distribute irrigation water to the landowners who are its members.
- **Physical characteristics:** An acequia or ditch typically include a diversion dam and headgate, a main ditch channel commonly called the *acequia madre*, lateral ditches leading from the main channel to irrigate individual parcels of land, and a wasteway channel that returns surplus water from the acequia or ditch system back to the stream. Occasionally, the works include a storage reservoir or transbasin ditch. The diversion structures commonly are built of readily available materials, such as timber, brush, and rocks, or consist of concrete and masonry. The channels are usually unlined, open and operate by gravity flow.
- **Acequia operation:** The community acequia or ditch association is composed of all owners of the lands irrigated by a ditch. Landowners are assessed dues by the acequia association for the operation and maintenance of, and improvements to the ditch system. Three commissioners and a mayordomo, elected by association members, manage the allocation and distribution of irrigation water, and all members participate in acequia maintenance.
- **Acequia numbers:**
 - An estimated 1,000 acequias exist in NM, which hold a significant portion of senior water rights (<http://www.nmacequias.org/page7.html>).
 - Approximately 680 acequias/ditches exist in north-central NM, within the upper Rio Grande watershed, distributed among about 40 acequia/ditch associations and individual tributaries (NMOSE database records).
 - Small tributaries have as few as four individual ditches to as many as 21 ditches on the Rio Chama, 34 on the Red River, 36 on the Rio Jemez, 52 on the Santa Fe River, 91 on the Rio Tusas (NMOSE database records).
- **Water rights:** Most acequias have not been adjudicated. (Indeed, the NM Acequia Association in 2000 objects to the process of adjudication as being unnecessarily costly, adversarial, etc.)
 - Acequias generally lack explicit statutory authority to control water rights that are part of their system making them among the most vulnerable water rights to water transfers.
 - Acequias operate to share shortages as opposed to water rights administration.
- **General position from the NM Acequia Association on uses of Rio Grande water for purposes similar to those required for the MRG ESA Collaborative Program needs:** A June 8, 2000 perspective statement on instream flow from the New Mexico Acequia Association states (Source: <http://www.nmacequias.org/WNRC%20Presentation%20June%208%20Web.htm>):

While we value and work towards the existence of living, healthy rivers, and we are indeed dependent upon their viability for irrigation, livestock, and domestic uses, we oppose attempts to establish instream flow rights through legislation or litigation. Any attempt to do so will place historically new demands upon acequia rights to meet recreational and habitat needs. We are opposed to the commodification of water a resource that has always been managed as a community. By promoting the creation of an instream flow water rights and market mechanisms to acquire water rights, instream flow proponents have become a competing interest along with cities, industry, and developers whose

increasing demand threatens acequia viability. We oppose any attempt to sever water rights from the lands to which they have been tied for hundreds of years. Such action would threaten both the economic viability of acequia communities dependent upon these rights for agriculture and the ability of the acequia to function efficiently. Use of the Endangered Species Act through the federal government to impose minimum stream flows goes against state primacy in water law and protections of acequia water rights by the Treaty of Guadalupe Hidalgo.

WAM Conclusion and Recommendations on Program Use of Acequia Water:

1. Acquiring acequia water for Program use would require the consent of the individual irrigators willing to forebear, other irrigators along that ditch or acequia, as well as those downstream with senior rights.
2. It is likely that the volumes of water available for acquisition would be small (in the range of a few or a few 10s acre feet per year for each agreement).
3. With the limited exceptions where the water rights have been adjudicated, legal ownership of most acequia/ditch water is unsettled. This exception includes the Rio de Chama below Abiquiu Dam, which includes operations of the Rio de Chama Acequia Association.
4. During low-flow years, downstream irrigators with senior rights (including Middle Rio Grande Conservancy District) apparently could legally divert any native water acquired by the program from individual acequia irrigators or acequia groups. (Acequias essentially have run-of-river diversion rights.)
5. In general, acequia water does not appear to be a reliable source of significant water volumes for the Program. It is presently beyond the means of the Program to contact individual irrigators to determine the extent of interest in leasing water to the Program.
6. Any direct offers of acequia water for Program use from forbearing individuals or groups of irrigators should be evaluated on assurances of legal ownership and dependability of the water reaching areas designated for Program uses.